

REMARKS

I. Status of Claims

Claims 1 and 3-12 are pending in the application. Claims 1 and 9 are independent. Claims 3 and 4 are withdrawn from consideration.

Claims 1 and 9 stand rejected under 35 USC 102(b) as allegedly being anticipated by Tsuchida et al. (USP 5,476,151) (“Tsuchida”).

Claims 8 and 12 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Tsuchida, as applied to claims 1 and 9 above.

Claim 5-7, 10 and 11 stand rejected under 35 USC 103(a) as allegedly being unpatentable over Tsuchida, as applied to claims 1 and 9 above, and further in view of Kawasaki et al. (USP 7,144,039) (“Kawasaki”).

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. Pending Claims

Claims 1 and 9 stand rejected under 35 USC 102(b) as allegedly being anticipated by Tsuchida.

The Applicant respectfully submits that certain embodiments of the present invention are directed to a mounting structure for a storage battery device that prevents or reduces damage to the storage battery device during, for example, a collision. In the embodiment of Figs. 1-4, a kick-up portion and a bridge deform during a collision to allow a rearward portion of a battery pack and a rearward portion of each kick-up portion to move apart from each other in up-down directions, as disclosed in paragraph [0044] of the application as published. In the embodiment of Figs. 5 and 6, an inclined portion of a rearward bracket is inclined forwardly upward so that during a collision the bumper of the rear-ending vehicle rides over the inclined portion, thereby restraining the rear-ending vehicle from contacting the battery, as disclosed in paragraph [0049] of the application as published. The Applicant respectfully submits that Tsuchida does not disclose or suggest the features of these embodiments.

The Office Action argues that the embodiment of Figs. 12-16 of Tsuchida describes features that equate to the elements recited in claims 1 and 9. As illustrated in Figs. 12-14, Tsuchida discloses front side members 16, support bars 56 with bent portions 56A and auxiliary

components 22 and 24 arranged along the support bars 56. (col. 9, ll. 5-48). When the front body 10A is compressed and deformed, the support bars 56 fold in two with respective bent portions 56A serving as bending points. (col. 9, ll. 30-34).

Claim 1 recites a “a fixing member that fixes the storage battery device to the frame so that the storage battery device moves relatively to the deformable portion when the deformable portion deforms.” The Office Action argues that Tsuchida support bars 56 read on the claimed fixing member. The Office Action apparently takes the position that each support bar “fixes the storage battery device to the frame so that the storage battery device moves relatively to the deformable portion when the deformable portion deforms,” as recited in claim 1. To the extent that the support bars 56 can be considered to correspond to the claimed fixing member, however, the support bars 56 clearly do not deform to increase a space in an up-down direction between a rearward portion of the storage battery device and a rearward portion of the kick-up portion, as illustrated in Fig. 4B of the specification.

Claim 9 recites “the fixing member includes an inclined portion that is inclined forwardly upward.” Once again, the Examiner argues that support bars 56 read on these features. As the Office Action concedes, however, Tsuchida does not disclose a bridge portion that connects two of the frames in a transverse direction of the vehicle, as recited in dependent claim 10. To cure this deficiency, the Office Action applies Kawasaki. With reference to Figs. 1-6, Kawasaki discloses a support frame 24 that bridges a pair of front side frames 11. (col. 3, ll. 41-42). Kawasaki further discloses a rear frame member 31 includes a rear middle portion 29 extending laterally, and a laterally arranged pair of rear legs 30 which obliquely and downwardly extend from the ends of the front middle portion 29. (col. 3, ll. 49-53). Neither Tsuchida nor Kawasaki, however, disclose a bracket of the fixing member in which a portion of a bracket forward of the inclined portion and a portion of the bracket rearward of the inclined portion are fixed to the frame, as illustrated in Fig. 5 of the specification.

That said, without waiving any argument, and to advance prosecution, the Applicant respectfully submits that claims 1 and 9 (as well as claim 10) are amended to further distinguish certain embodiments of the present invention from Tsuchida and Kawasaki.

In particular, the Applicant respectfully submits that, to more specifically clarify the nature of the claimed invention, claim 1 is amended to recite, *inter alia*, “***the fixing member is adapted to deform to increase a space in an up-down direction between a rearward portion of***

the storage battery device and a rearward portion of the kick-up portion,” and claim 9 is amended to recite, inter alia, “a bridge portion that connects two of the frames in a transverse direction of the vehicle; and a bracket for fixing the bridge portion to the vehicle,” and “a portion of the bracket forward of the inclined portion and a portion of the bracket rearward of the inclined portion are fixed to the frame.”

It is respectfully submitted that Tsuchida does not teach and/or suggest these limitations. Thus, Tsuchida does not anticipate the inventions of claims 1 and 9. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Further, as addressed above, Kawasaki does not address the deficiencies of Tsuchida. As discussed in *KSR Int’l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant. Obviousness cannot be sustained on mere conclusory statements.

Therefore, for at least these reasons, the Applicant respectfully submits that claims 1 and 9, and the claims depending therefrom, are patentable over the cited references.

III. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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